THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.8864 of 2004

Dated : 08.08.2007

Between:

P.Jagapathi Rao,
Managing Partner, Rukmini Theatre,
Sanga Reddy, Medak District.

..... PETITIONER

And:

The Joint Collector & Licensing Authority,
Medak District at Sangareddy and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.8864 of 2004

ORDER:

Petitioner filed the instant writ petition seeking a Mandamus declaring the proceedings dated 15.03.2004 issued by the first respondent as arbitrary and illegal.

It is the case of the petitioner that the first respondent issued no-objection certificate to him for construction of a cinema theatre under the name and style of Rukmini theatre, in Sy.No.313 of Rajampet H/o Sangareddy. When the petitioner was about to start constructions, the second respondent filed a petition dated 06.01.2004 before the first respondent stating that the proposed theatre is adjacent to Neo

Manjeera School and it would cause inconvenience and disturbance to the school children. Pursuant thereto, a notice was issued to the petitioner directing him to show cause as to why the no-objection certificate granted for construction of cinema theatre in the said survey number shall not be cancelled. The petitioner submitted his explanation. Not being satisfied with the same, the first respondent passed the impugned order dated 15.03.2004, cancelling the no-objection certificate issued in favour of the petitioner and thereby rejected the request of the petitioner to grant permission for construction of the cinema theatre. Hence, this writ petition.

A detailed counter-affidavit is filed on behalf of the first respondent.

This Court, while issuing rule nisi on 05.05.2004, suspended the impugned order dated 15.03.2004. It is now represented that in the light of the said interim orders, petitioner completed the construction and by virtue of the temporary licence issued by the first respondent, petitioner is also screening the films.

Having heard the learned counsel for the petitioner and also taking into consideration the fact that cinema theatre is constructed and temporary licence to screen the films is also issued, it cannot be said that the permission granted to the petitioner is contrary to Cinematograph Act and Rules. In fact, before issuing no-objection certificate, the authority should have considered the feasibility of permitting the construction of theatre. Though this Court suspended the impugned order, the first respondent issued temporary licence to the petitioner. If it is really causing disturbance and nuisance to the school children, the first respondent should not have given any temporary licence permitting the petitioner to screen films. Hence, this Court is of the view that the impugned order dated 15.03.2004 is not sustainable.

Accordingly, the writ petition is allowed and the order dated 15.03.2004 passed by the first respondent is hereby set aside. There

shall be no order as to costs.

sh 08.08.2007